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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Julie Straub, David Altreuter, Howard Bernstein, Donald E. Chickering, III,  
Sarwat Khatkhat, and Greg Randall

Serial No: 10/053,929

Art Unit: 1617

Filed: January 22, 2002

Examiner: Edward J. Webman

For: *POROUS DRUG MATRICES AND METHODS OF MANUFACTURE THEREOF*

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE  
PATENTING REJECTION OVER AN ISSUED PATENT**

Sir:

Petitioner, Acusphere, Inc., is the owner of the entire interest in the above-identified application and U.S. Patent No. 6,395,300, issued May 28, 2002, as evidenced by the accompanying Statements Under 37 C.F.R. § 3.73(b). Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173 as shortened by any terminal disclaimer filed prior to the grant of U.S. Patent No. 6,395,300, or any continuation thereof under 37 C.F.R. § 1.53(b). Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and U. S. Patent No. 6,395,300 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full

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statutory term as defined in 35 U.S.C. §§ 154-156 and 173 of U. S. Patent No. 6,395,300, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that the granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned (whose title is supplied below) is empowered to act on behalf of  
Acusphere, Inc.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

ACUSPHERE, INC.

By: Howard Bernstein

Name: Howard Bernstein

Title: SR VP

Date: 1-4-2005